

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

MADELINE CUEVAS,

Plaintiff,

v.

J.P. MORGAN CHASE NATIONAL  
ASSOCIATION, et al.,

Defendant.

No. C 09-3914 CRB

**ORDER DISMISSING CLAIM AND  
REMANDING CASE TO STATE  
COURT**

Currently before this Court is Defendant J.P. Morgan's motion to dismiss. For the reasons the follow, the motion is GRANTED as to the sole federal claim. Because this case was removed from state court, and the remaining claims are state claims, this case is hereby REMANDED to state court.

Plaintiff Madeline Cuevas obtained a mortgage loan in 2006 from Defendant Alliance Bancorp. That mortgage was later acquired by Defendant J.P Morgan. Plaintiff failed to make her contractually obligated payments. Defendants commenced foreclosure proceedings on the property, sending a notice of trustee sale on or about October 20, 2008.

This action was originally filed in Contra Costa County Superior Court and was removed to this Court. Plaintiff asserts nine claims relating to the original mortgage and the subsequent foreclosure; however, only one of these claims is a

1 federal claim. J.P. Morgan has now moved to dismiss under Federal Rule of Civil  
2 Procedure 12(b)(6).

3 Plaintiff's sole federal claim alleges that Defendant violated of the Real Estate  
4 Settlement Procedures Act ("RESPA") by failing to provide a sufficient written  
5 response to Plaintiff's Qualified Written Request ("QWR"), pursuant 12 U.S.C.  
6 § 2605(e). Plaintiff failed to plead any facts supporting this claim, alleging only that  
7 Defendant's response to the QWR was not sufficient. Additionally, at the hearing  
8 Plaintiff's counsel expressed that no further facts could be plead to support this claim,  
9 so amendment would be futile. Therefore, this claim is DISMISSED without leave to  
10 amend. Because Plaintiff's remaining claims are state claims and there is not  
11 sufficient diversity among the parties, this Court elects not to maintain jurisdiction  
12 over this case. This case is therefore REMANDED to state court.

13 **IT IS SO ORDERED.**

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15 Dated: November 13, 2009



16 CHARLES R. BREYER  
17 UNITED STATES DISTRICT JUDGE  
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